

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MOODY WOODROW TANKSLEY,

Plaintiff, 2:09-cv-0283 JFM (PC)

vs.

MEDICAL STAFF, SALINAS  
VALLEY STATE PRISON,

Defendant. ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." 28 U.S.C. § 1331(b).

1 In this case, none of the defendants reside in this district. The claim arose in  
2 Monterey County, which is in the Northern District of California. Therefore, plaintiff's claim  
3 should have been filed in the United States District Court for the Northern District of California.  
4 In the interest of justice, a federal court may transfer a complaint filed in the wrong district to the  
5 correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir.  
6 1974).

Accordingly, IT IS HEREBY ORDERED that:

1. This court has not ruled on plaintiff's request to proceed in forma pauperis; and
  2. This matter is transferred to the United States District Court for the Northern California.

11 || DATED: February 3, 2009.

John F. Wark  
UNITED STATES MAGISTRATE JUDGE

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